

YOUNG CONAWAY STARGATT & TAYLOR, LLP

BEN T. CASTLE
SHELDON N. SANDLER
RICHARD A. LEVINE
RICHARD A. ZAPPA
FREDERICK W. IOBST
RICHARD H. MORSE
DAVID C. MCBRIDE
JOSEPH M. NICHOLSON
CRAIG A. KARSNITZ
BARRY M. WILLOUGHBY
JOSEPH W. INGERSOLL
ANTHONY G. FLYNN
JEROME K. GROSSMAN
EUGENE A. DIPRINZIO
JAMES L. PATTON, JR.
ROBERT L. THOMAS
WILLIAM D. JOHNSTON
TIMOTHY J. SNYDER
BRUCE L. SILVERSTEIN
WILLIAM W. BOWSER
LARRY J. TARABICOS
RICHARD A. DILIBERTO, JR.
MELANIE K. SHARP
CASSANDRA F. ROBERTS
RICHARD J.A. POPPER
TERESA A. CHEEK
NEILLI MULLEN WALSH

JANET Z. CHARLTON
ROBERT S. BRADY
JOEL A. WAITE
BRENT C. SHAFFER
DANIEL P. JOHNSON
CRAIG D. GREAR
TIMOTHY JAY HOUSEAL
MARTIN S. LESSNER
PAULINE K. MORGAN
C. BARR FLINN
NATALIE WOLF
LISA B. GOODMAN
JOHN W. SHAW
JAMES P. HUGHES, JR.
EDWIN J. HARRON
MICHAEL R. NESTOR
MAUREEN D. LUKE
ROLIN P. BISSELL
SCOTT A. HOLT
JOHN T. DORSEY
M. BLAKE CLEARY
CHRISTIAN DOUGLAS WRIGHT
DANIELLE GIBBS
JOHN J. PASCHETTO
NORMAN M. POWELL
ELENA C. NORMAN

THE BRANDYWINE BUILDING
1000 WEST STREET, 17TH FLOOR
WILMINGTON, DELAWARE 19801

P.O. BOX 391
WILMINGTON, DELAWARE 19899-0391

(302) 571-6600
(800) 253-2234 (DE ONLY)
FAX: (302) 571-1253

110 WEST PINE STREET
P.O. BOX 594
GEORGETOWN, DELAWARE 19947

(302) 856-3571
(800) 255-2234 (DE ONLY)
FAX: (302) 856-9338

WWW.YOUNGCONAWAY.COM

DIRECT DIAL: 302-571-6673
DIRECT FAX: 302-576-3330
ssandler@ycst.com

JOSEPH M. BARRY
SEAN M. BEACH
SANJAY BHATNAGAR
DONALD J. BOWMAN, JR.
TIMOTHY P. CAIRNS
JEFFREY T. CASTELLANO
KARA HAMMOND COYLE
KRISTEN SALVATORE DEPALMA
MARGARET M. DIBIANCA
MARY F. DUGAN
ERIN EDWARDS
KENNETH J. ENOS
IAN S. FREDERICKS
JAMES J. GALLAGHER
SEAN T. GREECHER
STEPHANIE L. HANSEN
DAWN M. JONES
KAREN E. KELLER
JENNIFER M. KINKUS
EDWARD J. KOSMOWSKI
JOHN C. KUFFEL
KAREN LANTZ

SPECIAL COUNSEL
JOHN D. MCLAUGHLIN, JR.
KAREN L. PASCALE
PATRICIA A. WIDDOSS

TIMOTHY E. LENGKEEK
ANDREW A. LUNDGREN
MATTHEW B. LUNN
JOSEPH A. MALFITANO
ADRIA B. MARTINELLI
MICHAEL W. McDERMOTT
MARIBETH L. MINELLA
EDMON L. MORTON
D. FON MUTTAMARA-WALKER
JENNIFER R. NOEL
ADAM W. POFF
SETH J. REIDENBERG
SARA BETH A. REYBURN
CHERYL A. SANTANIELLO
(NJ & PA ONLY)
MICHELE SHERRETTA
MONTÉ T. SQUIRE
MICHAEL P. STAFFORD
CHAD S.C. STOVER
JOHN E. TRACEY
MARGARET B. WHITEMAN
SHARON M. ZIEG

SENIOR COUNSEL
CURTIS J. CROWTHER

OF COUNSEL
BRUCE M. STARGATT
STUART B. YOUNG
EDWARD B. MAXWELL, 2ND

January 17, 2007

BY E-FILE

The Honorable Mary Pat Thyng
United States District Court for the District of Delaware
844 North King Street, Room 4209
Lock Box 8
Wilmington, DE 19801

Re: Paul v. Deloitte & Touche LLP, et al.

Dear Judge Thyng:

This is written in response to Mr. Aber's letter of January 16, 2007. The Plaintiff was a partner in the Defendants' (collectively "Deloitte" hereafter) Boston, Massachusetts office. As you can see from the docket sheet, after his relationship with Deloitte terminated, Plaintiff, represented by Mr. Aber, filed a Complaint in this Court that included causes of action relying on the ADEA, the Delaware discrimination statute, the common law implied covenant of good faith and fair dealing, and his partnership agreements. Deloitte moved to dismiss the Delaware discrimination statute claim and the common law implied covenant and breach of contract claims on various grounds. Mr. Aber then filed an Amended Complaint on the Plaintiff's behalf adding a claim under the Massachusetts discrimination statute. Plaintiff then dismissed voluntarily his Delaware statutory discrimination claim, since the statute had not yet been enacted at the time Plaintiff left Deloitte. Deloitte then filed a motion to dismiss the Massachusetts cause of action on the ground that under the terms of Plaintiff's partnership agreements, he agreed that the laws of the State of Delaware would govern his relationship with Deloitte.

Subsequently Mr. Aber filed a Second Amended Complaint, without obtaining permission from Judge Jordan, in which diversity of citizenship was alleged as an additional jurisdictional basis for the claims. Deloitte moved to strike the Second Amended Complaint on the ground that there was no diversity of citizenship and Mr. Aber subsequently agreed and

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Mary Pat Thyne

January 17, 2007

Page 2

withdrew the Second Amended Complaint. Briefing on the pending motions was completed on August 21, 2006 but due to Judge Jordan's elevation to the Third Circuit, no decision was ever made. However, Judge Jordan did hold a Scheduling Teleconference and entered a Scheduling Order on November 2, 2006 that included a discovery cutoff, a date for case-dispositive motions and a trial date.

It is Defendants' position that discovery should not proceed until, as is normal in litigation, the pending motions to dismiss are resolved since, until that time, Defendants do not know what claims they are facing and, indeed, in fairness to Plaintiff, he does not know what claims he is asserting. His claims at present are, in essence, of two kinds, age discrimination in violation of the ADEA and the Massachusetts Discrimination Statute, and a common law claim that his termination was "based upon fraud, deceit or misrepresentation for the purpose of preventing him from obtaining benefits due him," in violation of the implied covenant of good faith and his written partnership agreements.

While there will be some overlap in the factual discovery, the nature of the age claim, which focuses primarily on how the Plaintiff was treated as compared to the treatment afforded to others, is quite different from that concerning a claim that the Defendants committed fraud. Cases are not ordinarily litigated piecemeal, and simply because a decision has been delayed due to extraordinary circumstances not caused by either party is no reason to depart from that norm. Therefore, the Defendants request that the Scheduling Order be suspended or withdrawn and that the various dates in the Order be held in abeyance until a decision is received on the pending motions.

Respectfully yours,

/s/ *Sheldon N. Sandler*

Sheldon N. Sandler 0245

SNS:y

cc: Gary W. Aber, Esquire (by e-file)
Andrew N. Wells, Esquire (by U.S. mail)
Ella Solomons, Esquire) (by U.S. mail)